IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

WP(C).No. 11144 of 2007(B)

PETITIONER:

THOMAS JOSEPH, KURICHIAPARAMBIL
VADAYAR VILLAGE, KADUTHURUTHY,
KOTTAYAM DISTRICT.

BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENTS:

---

1. THALAYOLAPARAMBU GRAMA PANCHAYATH,
THALAYOLAPARAMBU, REPRESENTED BY ITS
SECRETARY (SPECIAL GRADE).

2. THALAYOLAPARAMBU GRAMA PANCHAYATH
COMMITTEE, REPRESENTED BY ITS PRESIDENT
THALAYOLAPARAMBU.

BY ADV. SRI.LAL GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 11144 OF 2007

Dated this the 9th day of April, 2007

JUDGMENT

The grievance of the petitioner is that under the cover of implementing Ext.R1(b) order of the Tribunal, the Panchayat which has to accommodate the appellant before the Tribunal, is dispossessing the petitioner from a substantial portion of room No.VI/774 in the Panchayat shopping complex. He submitted Ext.P3 objections before the Panchayat pointing out that there are other tenants in the market who are in possession of more than one room and the Panchayat should repossess one of those additional rooms rather than attempting to dispossess the petitioner of a portion of the single room which is occupied by him. A counter affidavit has been filed by the Panchayat to which a reply affidavit has been filed by the petitioner.

2. Heard both sides. Mr.N.Muraleedharan Nair, counsel for the petitioner would submit that in Ext.R1(d) resolution the Panchayat does not even refer to the contention of the petitioner that there are other tenants who are in possession of more than one room and that those tenants should be dispossessed of one of the extra rooms. He also submitted that the above aspect of the matter is not even touched in the counter affidavit. Mr.Lal George, counsel for the Panchayat would invite

my attention to the terms of Ext.R1(a) agreement and particularly to the statement therein that after 1.4.07 the petitioner will not be entitled for any right whatsoever over the building bearing door No.VI/774. Mr.Lal George also placed strong reliance on the judgment of this Court in **Soman V. Kottarakkara Grama Panchayat** [2003(2) KLT 1007]. Counsel submitted that the Panchayat became constrained to repossess a portion of the big room under the occupation of the petitioner only because of the directions in Ext.R1(b) order. The room presently possessed by the petitioner is as big as the two rooms possessed by any other tenants.

Mr.Muraleedharan Nair is correct when he submits that Ext.R1(d) resolution does not refer to the contentions raised by the petitioner in Ext.P3 objections. He is also correct in saying that the contention of the petitioner in Ext.P3 have not been considered to by the Panchayat and is not even answered by the Panchayat in its counter affidavit. But the question is whether the petitioner has a legal right to insist that he should be permitted to continue in the entirety of room No.VI/774 in the light of the terms of Ext.R1(b) agreement and whether the petitioner is having any legal right over the whole of room No.VI/774. The issue I am afraid is covered against the petitioner by the judgment of this Court in Soman's case(supra). The Writ Petition will stand dismissed. The

interim order presently passed will continue till 16.04.2007 only. The Panchayat shall construct the partitioning wall at the earliest and will renew the licence in favour of the petitioner in respect of the portion which the petitioner will be allowed to retain.

PIUS C. KURIAKOSE, JUDGE

btt